

CLAIM REJECTIONS 35 USC §112

Claims 19, 20, 46 and 47 stand rejected under 35 USC § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has cancelled all claims under this rejection including claims 19, 20, 46 and 47 and as such respectfully requests that this rejection be removed.

CLAIM REJECTIONS 35 USC §102

Claims 1-57 were pending in this application with claims 1-17, 21-45 and 48-55 withdrawn from consideration due to the restriction requirement. Claims 46, 47 and 56 has also been cancelled from this application. Claims 18, 19 and 20 have been amended to further clarify and highlight distinctions between the present application and the cited references. Claim 58 has also been added to more clearly clarify the invention of the above-captioned application. Since the references do not disclose or suggest the invention of the amended claims the rejection should be withdrawn and all claims 18-20, 57 and 58 past to allowance. Allowance of all claims is believed appropriate and respectfully requested.

As noted the primary reference relied on the office action for all rejections is Zhao. As a foundation for the distinctions between the amended claims of the present invention and the Zhao reference, it will helpful to review the fundamental

teachings as well as what is not taught by the office actions primary reference, Zhao.

The cited reference to Zhao teaches a wide range of colorants. However, it does not describe any disperse dyes. Although a colourant is disclosed in Table 1 at column 5 which includes a chromophore which is anthraquinone, that colourant also includes approximately 12-15 moles of EO (ethylene oxide) and 8-10 moles of PO (propylene oxide) which necessitates the dye being polyoxyalkylenated. As found within column 5, line 48 of the Zhao reference such polyoxyalkylenated colourants are “liquid at ambient conditions of temperature and pressure.” As such, the incorporation of the polyoxyalkylenated groups will mean that such dyes as taught within the Zhao reference are not dispersed dyes. EO and PO groups are used to render materials water soluble and/or increase hydrophilicity of materials. Conversely, disperse dyes are a particular class of dyes which are water insoluble.

In further clarifying the invention of the above-captioned application, claim 18 has been amended and as such Zhao does not disclose a container or container perform. This further delineates the above-captioned invention from the teachings of Zhao as Zhao is concerned with producing a mass of colored polyester, plastic or resin “exhibiting substantially uniform colorations and optical physical properties throughout...” (column 2, line 50). This is also stressed at column 1, line 23 where Zhao states “the inventive product produces colored thermoplastics of substantially the same shades and uniformity.” Zhao is further distinguished as Zhao does not

teach of binding disperse dyes, let alone any dyes predominately to one but not the other surface of an article as disclosed in claim 19 of the above-captioned application. As such, the teachings of Zhao teach away from the invention of the above-captioned application and can in no way teach the features as embodied by the invention of the present application. As a consequence, Zhao cannot render and anticipate the invention of amended claims 18-20 and 57 in new claim 58 of the above-captioned application, all which should be allowed and the rejection under 35 USC § 102 be withdrawn.

CLAIM REJECTIONS 35 USC §103

Claims 18-20, 46, 47, 56, 57 are objected to under 35 USC §103 as being unpatentable over Luca, in view of Zhao et al. As previously stated, claims 18, 19, 20 have been amended to further clarify the invention from the prior art and claims 46, 47 and 56 have been cancelled which claim 57 also amended and newly claimed 58 added to further improve upon this clarification. In addition to the differences described above relating to Zhao, applicant respectfully suggests that Luka does not render the claims of the above captioned application obvious when combined with Zhao. As the office action states Luka does not teach a colourant having a chemical affinity for polyethylene terephthalate, does not teach the use of a disperse dye.

When combined with Zhao, neither teach of a disperse dye as the “poly(oxyalkene) polymeric colourant comprising anthraquinone” is not a disperse dye, as disclosed in the claims of the above captioned application.

Furthermore, not only do Zhao and Luka teach away from the invention of the above captioned application, but they also teach away from one another. Specifically, Zhao teaches a method of producing colored polyester thermoplastic materials using specific solid stating procedures. Luka teaches coatings on a finished product, these are fundamentally quite different. Zhao teaches combining a coloring agent after initial polymerization but before completion of a solid stating step.

Both references teach away from invention of the present application. Zhao teaches of dying at a certain step so as to not stain a container whereas Luka teaches the application of a coating to a material. The invention of the above captioned application uses disperse dyes to dye containers or container performs.

As such the rejection under 35 U.S.C. §103 should be removed and the claims allowed. Applicant respectfully requests that the claims of the present invention be allowed and the application be allowed to issue.

CONCLUSION

Based on the foregoing amendments and remarks, it is believed that all claims are in condition for allowance. Such action is earnestly sought. Applicant has commented on some of the distinctions between the cited references and the claims to facilitate a better understanding of the present invention. This discussion is not exhaustive of the facets of the invention, and Applicant hereby reserves the right to present additional distinctions as appropriate. Furthermore, while these

remarks may employ shortened, more specific, or variant descriptions of some of the claim language, Applicant respectfully notes that these remarks are not to be used to create implied limitations in the claims and only the actual wording of the claims should be considered against these references.

The Commissioner is authorized to charge any deficiency or credit any overpayment associated with the filing of this Response to Deposit Account 23-0035.

Respectfully submitted,

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